

REMARKS

35 U.S.C. § 101

Claim 50 was rejected under 35 U.S.C. § 101 as being directed to the same invention as claim 7 of U.S. Patent No. 6,156,535. Claim 50 has been cancelled and this rejection is now moot.

Nonstatutory Double Patenting

Claims 79-84, 85, and 86-89 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claim 7 of U.S. Patent No. 6,156,535 in view of Ausubel et al., (Short Protocols in Molecular Biology, 3rd Edition, Wiley Sons, Inc., pages 9.1, 16.3-5, and 16.58-62, 1992). Applicants submit that, in view of the concurrently filed Terminal Disclaimer, this rejection should be withdrawn.

35 U.S.C. § 112, first paragraph

Claims 81-83, 88, and 89, which are directed to cells expressing recombinant nucleic acids, are rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. The Examiner asserts that applicants have failed to enable the full scope of the pending claims, which encompass cells *in vivo*. This rejection is overcome by the amendment of the claims, which now recite “a cell *in vitro*,” and the enablement rejection may be withdrawn.

35 U.S.C. 112, second paragraph

Claim 84 is rejected under 35 U.S.C. 112, second paragraph, for being indefinite.

This rejection is overcome by the amendment of the claim, which now correctly refers to claim 83. Accordingly this rejection should also be withdrawn.

CONCLUSION

Applicants respectfully submit that this case is in condition for allowance, and such action is respectfully requested. If the Office does not concur, a telephonic interview with the undersigned is hereby requested.

Applicants note that the Form PTO 1449 that was submitted with an Information Disclosure Statement filed on November 10, 2003, has not been initialed and returned, and hereby request that it be initialed and returned with the next Office action.

Enclosed is a Petition to extend the period for replying to the final Office action for 2 months, to and including August 25, 2004, and a check in payment of the required extension fee.

If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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